

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**DOCKET NO. 2013-55-C**

In Re:	)	
	)	
South Carolina Telephone Coalition Petition	)	<b>Reply Memorandum</b>
to Modify Alternative Regulation Plans Filed	)	<b>of South Carolina Cable Television</b>
Pursuant to S.C. Code Ann. § 58-9-576(B) to	)	<b>Association in Support of Motion</b>
Take Into Account Recent Action by the	)	<b>for Production of</b>
Federal Communications Commission	)	<b>Certain USF Records</b>
	)	
	)	

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The South Carolina Cable Television Association (“SCCTA”) submits this reply memorandum in support of its motion for an order allowing the Office of Regulatory Staff (“ORS”) to make available under a protective order certain documents submitted to the ORS in connection with the operation of the South Carolina Universal Service Fund. SCCTA now submits this memorandum to briefly respond to the arguments of the South Carolina Telephone Coalition (“SCTC”) opposing the SCCTA motion.

In its motion the SCCTA requested that the ORS be allowed to make available certain regular annual USF filings made by the members of the SCTC. It is the position of the SCCTA, as set out in its petition to intervene, that the increase in the maximum rate that can be charged by SCTC members for basic service requires adjustments in the amount of USF subsidies those companies can withdraw from the USF. In its Petition to Intervene the SCCTA suggested that the impact of the increase could be calculated by using certain forms submitted on an annual basis by the companies receiving subsidies from the USF. The SCCTA based its assertion that the annual forms would be sufficient

for this purpose based on its review of blank sample forms that were attached to the Commission's USF Guidelines approved in Order 2001-996 in Docket No. 97-239-C.

In order to further assess the appropriateness of using the annual forms to determine the impact of the increased maximum rate the SCCTA filed its motion seeking the last three years of actual filings of the annual reports. These documents are directly relevant since they will show how the forms are actually used by the companies receiving USF subsidies. The SCCTA recognizes that there are issues regarding the confidentiality of the documents and its motion took that into account by requesting that the documents be produced under an appropriate protective order.

In its return to the SCCTA motion the SCTC relies upon Hamm v. S.C.P.S.C., 312 SC 238, 439 SE2d 852 (1994). The reliance of SCTC on that case is misplaced. In the Hamm case the Commission allowed the Consumer Advocate to obtain discovery of certain SCE&G coal contracts but required that the contracts be produced under a protective order. The Consumer Advocate's appeal argued that the contracts should be made public. The Supreme Court affirmed the Commission's ruling, finding that the Commission had properly balanced the interest of the Consumer Advocate in obtaining discovery of the documents with the legitimate interest of SCE&G in maintaining the confidentiality of them. The SCCTA motion requests that the Commission do exactly the same here: allow discovery of the documents under a protective order that addresses the competitive concerns of the SCTC.

The relevance of the documents sought by the SCCTA is illustrated by a recent filing by the Office of Regulatory Staff. On March 20, 2013 the ORS submitted a letter reporting an issue with the same forms requested under the SCCTA motion. The ORS

letter states that “ORS has observed that the forms completed by certain ILECs show that the monthly USF support amount exceeds their reported cost.” See NDI 2013-6-C. That letter suggests that are real issues with the annual USF forms and that those forms may not be the appropriate way to adjust the USF to account for the increase in maximum rates. The SCCTA clearly needs to see the actual, completed forms in order to determine how best to advocate its position in this proceeding. Since that is the function of discovery, the SCCTA submits that it should be given copies of the documents under an appropriate protective order.

Dated this 8<sup>th</sup> day of April, 2013.

ROBINSON, MCFADDEN & MOORE, P.C.



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**CERTIFICATE OF SERVICE**

This is to certify that I, Toni C. Hawkins, a Paralegal with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below

**Reply Memorandum of South Carolina Cable Television Association in Support of Motion for Production of Certain USF Records** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

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Dated at Columbia, South Carolina this 8<sup>th</sup> day of April, 2013.



Toni C. Hawkins